

## § 200.101 Applicability.

(a) General applicability to Federal agencies. The requirements established in this part apply to Federal agencies that make Federal awards to non-Federal entities. These requirements are applicable to all costs related to Federal awards.

(b)

(1) Applicability to different types of Federal awards. The following table describes what portions of this part apply to which types of Federal awards. The terms and conditions of Federal awards (including this part) flow down to subawards to subrecipients unless a particular section of this part or the terms and conditions of the Federal award specifically indicate otherwise. This means that non-Federal entities must comply with requirements in this part regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award. Pass-through entities must comply with the requirements described in Subpart D—Post Federal Award Requirements of this part, § 200.330 Subrecipient and contractor determinations through § 200.332 Fixed amount Subawards, but not any requirements in this part directed towards Federal awarding agencies unless the requirements of this part or the terms and conditions of the Federal award indicate otherwise.

The following portion of the Part:	Are applicable to the following type of Federal Award(except as noted in paragraphs (d) and (e)) below	Are NOT applicable to the following types of Federal Awards:
Subpart A—Acronyms and Definitions	—All.	
Subpart B—General Provisions, except for <ul style="list-style-type: none"><li>• § 200.111 English language,</li><li>• § 200.112 Conflict of interest,</li><li>• § 200.113 Mandatory disclosures</li></ul>	—All.	
§ 200.111 English language, § 200.112 Conflict of interest, and § 200.113 Mandatory disclosures	<ul style="list-style-type: none"><li>• Grant agreements and cooperative agreements</li></ul>	<ul style="list-style-type: none"><li>• Agreements for: loans, loan guarantees, interest subsidies, and insurance.</li><li>• Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement subcontracts under these contracts.</li></ul>
Subparts C-D, except for Subrecipient Monitoring and Management	—Grant agreements and cooperative agreements	

(2) Federal award of cost-reimbursement contract under the FAR to a non-Federal entity. When a non-Federal entity is awarded a cost-reimbursement contract, only Subpart D—Post Federal Award Requirements of this part, § 200.330 Subrecipient and contractor determinations through § 200.332 Fixed amount Subawards (in addition to any FAR related requirements for subaward monitoring), Subpart E—Cost Principles of this part and Subpart F—Audit Requirements of this part are incorporated by reference into the contract. However, when the Cost Accounting Standards (CAS) are applicable to the contract, they take precedence over the requirements of this part except for Subpart F—Audit Requirements of this part when they are in conflict. In addition, costs that are made unallowable under 10 U.S.C. 2324(e) and 41 U.S.C. 4304(a) as described in the FAR subpart 31.2 and subpart 31.603 are always unallowable. For requirements other than those covered in Subpart D—Post Federal Award Requirements of this part, § 200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, Subpart E—Cost Principles of this part and Subpart F—Audit Requirements of this part, the terms of the contract and the FAR apply.

(3) With the exception of Subpart F—Audit Requirements of this part, which is required by the Single Audit Act, in any circumstances where the provisions of Federal statutes or regulations differ from the provisions of this part, the provision of the Federal statutes or regulations govern. This includes, for agreements with Indian tribes, the provisions of the Indian Self-Determination and Education and Assistance Act (ISDEAA), as amended, 25 U.S.C 450-458ddd-2.

(c) Federal agencies may apply subparts A through E of this part to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determines that the application these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government.



(d) Except for § 200.202 Requirement to provide public notice of Federal financial assistance programs and § 200.330 Subrecipient and contractor determinations through § 200.332 Fixed amount Subawards of Subpart D—Post Federal Award Requirements of this part, the requirements in Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards, Subpart D—Post Federal Award Requirements of this part, and Subpart E—Cost Principles of this part do not apply to the following programs:

- (1) The block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grant Awards for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, section 583—the Secretary's discretionary award program) and both the Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant Award (42 U.S.C. 300x-21 to 300x-35 and 42 U.S.C. 300x-51 to 300x64) and the Mental Health Service for the Homeless Block Grant Award (42 U.S.C. 300x to 300x-9) under the Public Health Services Act.
- (2) Federal awards to local education agencies under 20 U.S.C. 7702-7703b, (portions of the Impact Aid program);
- (3) Payments under the Department of Veterans Affairs' State Home Per Diem Program (38 U.S.C. 1741); and
- (4) Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended:
  - (i) Child Care and Development Block Grant (42 U.S.C. 9858)
  - (ii) Child Care Mandatory and Matching Funds of the Child Care and Development Fund (42 U.S.C. 9858)

(e) Except for § 200.202 Requirement to provide public notice of Federal financial assistance programs the guidance in Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards of this part does not apply to the following programs:

- (1) Entitlement Federal awards to carry out the following programs of the Social Security Act:
    - (i) Temporary Assistance to Needy Families (title IV-A of the Social Security Act, 42 U.S.C. 601-619);
    - (ii) Child Support Enforcement and Establishment of Paternity (title IV-D of the Social Security Act, 42 U.S.C. 651-669b);
    - (iii) Foster Care and Adoption Assistance (title IV-E of the Act, 42 U.S.C. 670-679c);
    - (iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI-AABD of the Act, as amended); and
    - (v) Medical Assistance (Medicaid) (title XIX of the Act, 42 U.S.C. 1396-1396w-5) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B) of the Social Security Act (42 U.S.C. 1396b(a)(6)(B)).
  - (2) A Federal award for an experimental, pilot, or demonstration project that is also supported by a Federal award listed in paragraph (e)(1) of this section;
  - (3) Federal awards under subsection 412(e) of the Immigration and Nationality Act and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits (8 U.S.C. 1522(e));
  - (4) Entitlement awards under the following programs of The National School Lunch Act:
    - (i) National School Lunch Program (section 4 of the Act, 42 U.S.C. 1753),
    - (ii) Commodity Assistance (section 6 of the Act, 42 U.S.C. 1755),
    - (iii) Special Meal Assistance (section 11 of the Act, 42 U.S.C. 1759a),
    - (iv) Summer Food Service Program for Children (section 13 of the Act, 42 U.S.C. 1761), and
    - (v) Child and Adult Care Food Program (section 17 of the Act, 42 U.S.C. 1766).
  - (5) Entitlement awards under the following programs of The Child Nutrition Act of 1966:
    - (i) Special Milk Program (section 3 of the Act, 42 U.S.C. 1772),
    - (ii) School Breakfast Program (section 4 of the Act, 42 U.S.C. 1773), and
    - (iii) State Administrative Expenses (section 7 of the Act, 42 U.S.C. section 1776).
  - (6) Entitlement awards for State Administrative Expenses under The Food and Nutrition Act of 2008 (section 16 of the Act, 7 U.S.C. 2025).
  - (7) Non-discretionary Federal awards under the following non-entitlement programs:
    - (i) Special Supplemental Nutrition Program for Women, Infants and Children (section 17 of the Child Nutrition Act of 1966) 42 U.S.C. section 1786;
    - (ii) The Emergency Food Assistance Programs (Emergency Food Assistance Act of 1983) 7 U.S.C. section 7501 note; and
    - (iii) Commodity Supplemental Food Program (section 5 of the Agriculture and Consumer Protection Act of 1973) 7 U.S.C. section 612c note.
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## **COFAR Frequently Asked Questions**

### **If the Federal agency awards a FAR based contract to the contractor, a non-federal entity, to what extent is the Uniform Guidance applicable to the contract?**

The cost principles in Subpart E, and the audit requirements in Subpart F, of the Uniform Guidance are applicable to the FAR based contracts awarded by a Federal agency to a non-federal entity that is an educational institution; state, local, or Federally recognized Indian Tribal government; or nonprofit organization. While the Subpart E cost principles are applicable to FAR based contracts, their practical impact is on negotiated prime contracts and subcontracts thereof; as a practical matter, the cost principles are not applicable in certain instances, e.g., when the contract or subcontract is for the acquisition of a commercial item, a firm, fixed price contract or subcontract is awarded on the basis of adequate price competition without the submission of certified cost or pricing data, or the price is set by law or regulation. While the Subpart F audit requirements are applicable to FAR based contracts, those audit requirements are not sufficient to meet FAR contract audit requirements as a practical matter. (See FAQ 200.101-2 – Audit Requirements of FAR based contracts in addition to the Uniform Guidance Audit Requirement.)

The other subparts of the Uniform Guidance are applicable to the FAR based contracts awarded by a Federal agency, and any subcontracts awarded in accordance with any flow down requirements from the prime contract or higher tier subcontract – but only to the extent that the Uniform Guidance provision is not inconsistent with the terms and conditions of the contract and FAR requirements. The terms and conditions of the contract and FAR requirements must be given effect as they cannot be read out of the contract, modified or superseded by the Uniform Guidance provision. Any Uniform Guidance provision that addresses the same matter as covered by the terms of the contract and FAR requirements are, at the most, supplemental requirements secondary to, and in addition to, the FAR contract requirements.

### **Does an audit conducted in accordance with Subpart F of the Uniform Guidance which implements the Single Audit Act (SAA) requirements satisfy the contract audit requirements of FAR based contracts awarded by a Federal agency?**

Generally, the practical answer is NO; the audit required by Subpart F of the Uniform Guidance does not satisfy the audit requirements required by the terms of the FAR based contract and FAR requirements, including, but not limited to, the Cost Accounting Standards (CAS), Truth in Negotiations Act (TINA), contractor business systems, incurred costs, and indirect costs/overhead rates (see section 200.503(c)). Despite the name which implies a single audit, the SAA (31 U.S.C. 7503(b) – Relation to other audit requirements) gives a Federal agency, Inspector General, or the Government Accountability Office (GAO) the authority to conduct additional audits beyond the single audit required by the SAA when the additional audits are necessary for the agency to carry out its responsibilities under Federal law or regulation. See section 200.503(b) of the Uniform Guidance.

### **What is the relationship of the Cost Accounting Standards (CAS) to the Uniform Guidance?**

The Cost Accounting Standards Board (CASB) is an independent board in the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) established by statute (41 U.S.C. 1501, et seq.) The CASB has the exclusive authority to prescribe, amend, and rescind cost accounting standards (CAS), and interpretations of the standards, designed to achieve uniformity and consistency in the cost accounting standards governing the measurement, assignment, and allocation of costs to contracts with the Federal Government. The CAS are mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing and administration of contracts and subcontracts when they are subject to CAS. As provided by its exclusive statutory authority, actions taken by the CASB to prescribe or amend rules, regulations, cost accounting standards (CAS), and modifications thereof, have the full force and effect of law. Section 200.419 of the Uniform Guidance provides only a brief summary of the CAS regulations; for authoritative CAS guidance and additional details, see 48 CFR 9900, et seq. and 48 CFR Part 30 (FAR Part 30).